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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,049	12/01/2003	Erning Xia	P03373	2954
23702	7590	12/14/2005	EXAMINER	
Bausch & Lomb Incorporated One Bausch & Lomb Place Rochester, NY 14604-2701			CHORBAJI, MONZER R	
			ART UNIT	PAPER NUMBER
			1744	
DATE MAILED: 12/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,049

Applicant(s)

XIA ET AL.

Examiner

MONZER R. CHORBAJI

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,5,6 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5,6 and 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/11/05 & 4/25/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This non-final action is in response to the amendment filed on 10/03/2005

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 5-6 and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Ellis et al (U.S.P.N. 4,436,730).

With respect to claim 1, the Ellis reference discloses an aqueous ophthalmic solution (col.1, lines 61-67 and col.5, lines 9-15) that includes quarternized ammonium cationic polysaccharides (col.10, lines 26-41 and examples VI-VII) in an amount effective for solution preservation (example VI and col.2, lines 54-62).

With respect to claims 3 and 6, the Ellis reference employs variations of polyquaternium 10 (example IV).

With respect to claims 5 and 13-15, the Ellis reference discloses a method where cationic polysaccharides (example IV) is combined in amount effective (examples V-VII) for solution preservation (col.2, lines 54-62) where surfaces of contact lenses (i.e., medical items) are treated over a time interval so that microbial burden (col.2, lines 59-62 and col.7, lines 59-61) on contact lenses is eliminated.

With respect to claims 9-12, the Ellis reference teaches the following: the use of a buffer (col.7, lines 57-59), the use of tonicity agents (Example V), the use of surfactants (col.7, lines 56-57) and the use of viscosity agents (col.7, lines 49-50).

Response to Arguments

3. Applicant's arguments with respect to claims 1, 3, 5-6 and 9-15 have been considered but are moot in view of the new ground(s) of rejection.

The Ellis reference is applied to show that the use of an aqueous ophthalmic solution that includes quarternized ammonium cationic polysaccharides in an amount effective for solution preservation is known. Please see the following: col.1, lines 61-67 and col.5, lines 9-15, col.10, lines 26-41 and examples VI-VII and example VI and col.2, lines 54-62.

Conclusion


4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Ellis et al (U.S.P.N. 5,401,327) teaches the use of cationic polysaccharides in treating contact lenses. The Brode et al (U.S.P.N. 4,767,463) reference teaches that cationic polysaccharides are used as cleansing agents. The Schmucker-Castner et al (U.S.P.N. 6,635,702) reference teaches using a preservative composition that includes cationic polysaccharides.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MONZER R. CHORBAJI whose telephone number is (571) 272-1271. The examiner can normally be reached on M-F 6:30-3:00.

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6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD D. CRISPINO can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Monzer R. Chorbaji 
Patent Examiner
AU 1744
12/11/2005


RICHARD CRISPINO
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700